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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/015,660

12/17/2001

Hiroyasu Fujiwara

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11/17/2006

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EXAMINER

GEBRESILASSIE, KIBROM K

ART UNIT

PAPER NUMBER

2128

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/015,660

Applicant(s)

FUJIWARA ET AL.

Examiner

Kibrom K. Gebresilassie

Art Unit

2128

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed October 23, 2006 have been fully considered but they are not persuasive.

Regarding Claims 1 and 2:

Applicants argued that the prior art does not disclose, "inputting the communication data sent from a first to a second organization." The recited inputting "the communication data" is interpreted as "demand data" as taught by Umeda et al. Umeda et al teaches that the demand data driver such as the first organization collects a demand data sent by the distributors and customers to the simulation system such as second organization using a communication server taught by Umeda (See: page 1379, # 3).

Applicants argued that the prior art does not disclose, "simulating a first intra-organization executed in the first organization when sending the communication data." Examiner respectfully disagrees. Umeda teaches that after the collection and process of demand data by the demand data driver such as first organization, the demand data send to the simulation system for simulating the demand data. Umeda et al uses supply chain simulation system to simulate the data transactions through the communication among suppliers in the chain (See: "Supply Chain Simulation System" of page 1379 and 1380). Therefore, Umeda clearly teaches the simulation of demand data such as communication data between suppliers in the chains.

Applicants argued that the prior art Umeda does not teach, "recording first data generated by the first intra-organization procedure." Examiner respectfully disagrees. Umeda et al has buffers in the middle layers of the simulation hierarchical model, which used for recording generated data (See: page 1380, left side column, lines 8-14).

Regarding Motivation to Combine:

Applicants argued that neither Umeda et al nor Takahashi et al contains the motivation to include the feature of Takahashi et al within the teachings of Umeda et al.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a clear motivation based on the nature of the problem to be solved, and knowledge of generally available to one of ordinary skill in the art. The common thread between the references is the business transactions between different companies or firms such as vendors, retailers, and distributors. One of the references is with real world data and one with simulation data. Umeda et al lacks to use a real world data such as contract terms, an article price, and an article. Takahashi et al uses a "real world" generated data such as contract terms, an article price, and an article in-between the firms for a transaction business. It would have been obvious to one of ordinary skill in the art to link the real world data of Takahashi et al to the teachings of Umeda et al of simulation system to gain a successful result of real time customer demands in the business transaction between different companies or firms.

Applicants argued that rejecting the claims directed to processing system under the same rational as claims directed to the readable-by-computer recording medium with a program read by a computer, is deprived of the opportunity to argue.

In response to applicant's arguments, the recitation processing system or readable by computer medium or program read by a computer has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).


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SUPERVISORY PATENT EXAMINER